

Joint Force Headquarters

JFHQKS TPP 771

State of Kansas
2800 SW Topeka Blvd
Topeka KS 66611-1287
1 March 2009

Technician Personnel

Administrative Grievance Procedure

1. Purpose. This regulation establishes the procedures and policies that will be used in the presentation, acceptance and processing of grievances that may arise. The procedures herein do not apply to a grievance system established through a negotiated agreement between the Adjutant General and a labor organization to which exclusive recognition has been granted. Technicians have the right to present grievances with or without representation and must be free to use these procedures without restraint, interference, coercion, discrimination, or reprisal. There is no administrative review of grievances beyond the Adjutant General.

2. Applicability. This regulation is applicable to all National Guard Technicians, Dual Status or Non-Dual Status, not covered by a collective bargaining agreement.

3. Responsibilities.

a. Director of Human Resources Office. Ensure efficient management of the Administrative Grievance Procedures in the Kansas National Guard.

b. Organizational Commanders and Directors. Ensure the administrative grievance system is maintained and the directives set by this regulation are followed in subordinate units.

c. Labor Relations Specialist. Ensure actions taken under the regulation are in compliance with its directives. Ensure all reports are submitted in accordance with the prescribing directives of this regulation.

4. Exclusions. The following items are excluded from coverage by this regulation:

a. Any matter which is subject to final administrative review outside the Kansas National Guard under law or the regulations of the Office of Personnel Management or the National Guard Bureau, i.e., compatibility requirements, manning structure, etc.

b. The content of published agency regulations and policy.

- c. Non-selection for promotion from a group of properly certified candidates.
- d. A preliminary warning or notice of an action which, if effected would be covered under appeals system or excluded from coverage under sub-paragraph a. above.
- e. An action terminating a temporary promotion, regardless of the length, or basis for the action.
- f. Any action which has an appeal procedure established by law or regulation.
- g. Non-adoption of a suggestion or disapproval of a quality step increase, performance award, or other type of honorary or discretionary award.
- h. The substance of the critical elements, and performance standards of the technician's position.
- i. A merit pay determination or a merit pay increase or the lack of a pay increase.
- j. A performance evaluation.
- k. The termination of a trial period employee for unsatisfactory service.
- l. Any action taken pursuant to 32 USC 709 (f).

5. Representation. A technician has the right to present a grievance without representation. A technician also has the right to be accompanied, represented, and advised by one representative of his choice at any stage of the proceedings. The representative must be designated by the technician in writing. A written designation may be changed only by written notification to the official then considering the matter. If the technician chooses another technician of the Kansas National Guard as the representative, and that individual is willing to represent the technician, that individual must not be denied permission to do so unless the representation would: (1) contribute appreciably to the neglect of that individual's regular duties, or (2) constitute a clear conflict of position (for example, members of the staff of the Human Resources Office or the legal advisor to the Adjutant General).

6. Use of duty time.

a. A technician is entitled to a reasonable amount of duty time for the preparation and presentation of a grievance under the procedures authorized in this regulation, if the technician is otherwise in a duty status. The time to be allowed will be determined on the basis of the facts and circumstances in each individual case.

b. If the technician's representative is a Kansas National Guard technician in a duty status, that technician is also entitled to a reasonable amount of duty time to assist or act for the technician in preparation and presentation of the grievance.

c. Technicians, whether principals or representatives, must make advance arrangements with their supervisors for the use of duty time preparing a grievance. When there is a disagreement concerning the amount of duty time to be granted, the matter will be submitted by the supervisor to the Human Resources Office/Labor Relations Section for guidance and final decision.

7. Grievance File. When a formal grievance is accepted under this regulation, the Human Resources Office/Labor Relations Section establishes a file containing all documents pertinent to the case. This file becomes the official grievance file. It should contain original documents whenever possible or true copies. It must not contain any document that is not available to the technician.

8. Cancellation of Grievances. A grievance that is in the investigative or review stage will be canceled by the official considering it:

a. On receipt of a technician's written request, or on notification that the full remedy has been granted whether or not the technician requests cancellation.

b. For failure to prosecute if the technician does not furnish required information and duly proceed with the advancement of his case, after having been notified in writing of the possibility of cancellation.

c. Upon the death of the technician, or upon his separation for reasons not connected with the grievance, provided there is no question of pay involved or other relief that could be granted to the technician.

The official canceling the grievance must notify all parties promptly in writing of his action and the reasons for it. If the grievance was terminated for failure to prosecute, the notice must also inform the technician of his right to request review of the decision by the Adjutant General.

9. Informal Procedure:

a. A technician desiring consideration of a grievance under this section must first seek informal adjustment of the matter with the supervisor/manager concerned. Initial presentation at the informal stage may be made verbally. When the complaint concerns the immediate supervisor, the grievance may be presented to the next higher level supervisor in the chain of command. A technician may present a grievance concerning a continuing practice or condition at any time, but must present a grievance concerning a particular act or occurrence within 30 days of the date becoming aware of the act or occurrence. A technician, in presenting a grievance is entitled to communicate with and seek advice from:

The Human Resources Office
The Equal Employment Opportunity Office or Counselor

b. The supervisor to whom a grievance has been presented will attempt to resolve the issue(s) as expeditiously as possible, seeking the advice and assistance of others where necessary, and attempt to resolve the matter not later than 5 workdays after the date of presentation. If the adjustment sought cannot be granted, the technician will be informed of the reasons and of the right to request further consideration under the formal procedures in paragraph 10 below. The technician will also be informed that procedural assistance may be obtained from the Human Resources Office.

c. A grievance may not be rejected in the informal procedures for any reason. If the supervisor believes that the grievance is not timely or consists of a matter not covered under the grievance system, the technician will be so advised and will be allowed to submit the grievance for a determination under the formal procedures.

d. Alternative Dispute Resolution (ADR) may be attempted at anytime during the informal grievance procedure if both parties agree. Time frames will be suspended during the ADR process. Contact the Human Resources Office to request a mediator and for more information about the program.

10. Formal Procedure. When a technician receives a decision under the informal procedures which does not satisfy the grievance, the technician may begin the formal grievance procedure. The grievance must be in writing and be signed by the technician and presented to the supervisor/manager above the person in the chain of command addressed in the informal process. The grievance must contain sufficient detail to identify clearly the basis for the grievance, explain the efforts made to resolve the grievance informally, and specify the relief sought by the technician. If the technician has a representative, provide their name, address and telephone number. Copies of any documents related to the grievance and copies of to the efforts at informal resolution must be attached. A copy must be provided to the Human Resources Office/Labor Relations section when initiating a formal grievance. The supervisor/manager will review the grievance and within 10 workdays take one of the following actions:

a. Reject the grievance if it consists wholly of matters excluded from coverage of the grievance procedures or if it was not timely filed and the technician did not show good cause for the delay. The notice may also include advice to the technician of appropriate procedures available for resolution of the issue, if it is excluded from these procedures.

b. If the technician did not seek informal adjustment under paragraph 9 before filing the grievance, return the grievance to the technician and inform the technician of the requirement of using the informal procedure.

c. The supervisor/manager reviews the grievance, meets with the grievant (if necessary), and within 10 workdays issues a written decision on the grievance. The technician is notified of the right, if not satisfied with the determination, to request a review of the decision by the directorate/air commander within 10 days after receipt.

11. Appeal to the Adjutant General.

a. If the technician is not satisfied with the decision he may, within 5 workdays of receipt of the decision, request the Human Resources Office/Labor Relations section to refer the grievance to the Adjutant General for final decision. On receipt of the request in the Human Resources Office the grievance will be assigned to an investigating official selected by the Adjutant General. This individual will normally be a disinterested officer of the Kansas National Guard. As soon as possible after receipt, the investigating official reviews the grievance, eliminate from consideration any matters not covered under the grievance system and notify the parties accordingly. For matters covered under the grievance system, the investigating official conducts an inquiry of a nature and scope appropriate to the issues involved.

b. The investigating official schedules proceedings so that, whenever possible, the inquiry is completed within 15 workdays after the date the grievance was received. Delays in the proceedings will be held to an absolute minimum. Delays requested by the parties will be approved by the investigating official only on presentation of valid reasons.

c. If a hearing is held the hearing is not open to the public or the press, but is limited to persons determined by the investigating official to have a direct connection with the grievance or to observe when authorized by this regulation.

d. Upon completion of the inquiry, the investigating official prepares a report of findings and recommendations and submits the report, together with the grievance file, to the Adjutant General. The report will identify the issues covered in the inquiry and explain why any issues raised in the grievance were excluded.

12. Grievance Decision.

a. After receipt of the grievance file from the investigating official, the Adjutant General shall within 15 workdays render a final decision on the grievance. The decision on a grievance will be in writing, and addressed to the grievant, and will contain the following information:

(1) Findings on all issues grieved;

(2) A specific statement of the corrective action that will be taken; and that the decision is final and no right of appeal extend beyond the Adjutant General.

b. When the decision cannot be issued within the specified time limits, the grievant will be notified of the reasons and the anticipated date of decision.

c. The investigating officials report and Adjutant General's final decision will be filed in the Human Resources Office/Labor Relations section.

A handwritten signature in black ink, appearing to read 'Kathryn L. Hulse', written in a cursive style.

KATHRYN L. HULSE, Colonel, KSNG
Human Resources Officer

1. Date	2. Name:	3. Position:
4. Duty Location:	5. Duty Phone:	6. Incident Date:
7. Grievance addressed decision/action of:	8. Informal Grievance Presented To:	
	Signature	Date
9. Regulation or other reference		
10. Details of Grievance (State in detail the incident/action on which this grievance is based providing names, dates, and locations, if applicable. Continue on separate sheet(s), if necessary.)		
11. Proposed Resolution (Continue on separate sheet(s), if necessary)		
12. Summary of Decision from Informal Process: (Attach additional pages if necessary)		
12. Grievance Steps (Initial, Date, and attach previous decisions)		
Informal _____ Date	Step 1 _____ Date	Step 2 _____ Date
	Step 3 _____ Date	Arbitration Yes No
13. Grievant's Signature		

14. Representative

15. Record of Receipt (Recipient must sign and date for each step)

Step 1 _____ Date _____

Step 2 _____ Date _____

Step 3 _____ Date _____

Decision from Formal Step #1 (Provide copy to HRO/LRS, maintain a copy locally and return original to Grievant)

Decision from Formal Step #2 (Provide copy to HRO/LRS, maintain a copy locally and return original to Grievant)

Decision from Formal Step #3 (Provide copy to HRO/LRS, maintain a copy locally and return original to Grievant)